IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Mr. JUSTICE M.H.S. ANSARI

and
THE HON'BLE Mr. JUSTICE T.Ch.SURYA RAO

WRIT PETITION No. 23148 of 2004

Between:

M/s Sriprada Lubes & Petro Chemicals, Nagamambapuram
Village, Butchireddypalem Mandal, Nellore District Rep. by its Partner Smt. P. T. Padmaja.

..... PETITIONER

AND

1. The Additional Commissioner (CT))Legal, (FAC), A.P. Office of the Commissioner of Commercial Taxes, M.J. Road, Hyderabad.
2. The Deputy Commissioner Commercial Taxes, Nellore Division, Nellore.
3. The Commercial Tax Officer, Kavali Circle, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ of Certiorari or any other appropriate Writ or Order or Direction calling for the records of the 1st Respondent dt. 7-12-2004 in C.C.Ts. Ref.No. LV(1)3348/2004 and quash the same as arbitrary, contrary to law and against weight of evidence and also contrary to the decision of this Hon'ble Court reported in 85 STC 120 and 96 STC 369 as well as the decisions of Madras High Court and consequently grant stay of collection of disputed tax of Rs. 19,87,582/- for the assessment year 1999-2000 (CST) pending disposal of the appeal before the Sales Tax Appellate Tribunal.

Counsel for the Petitioner: Mr. SHAIK JEELANI BASHA

Counsel for the Respondents: GP FOR COMMERCIAL TAXES

The Court at the admission stage made the following :

ORAL ORDER: (per M.H.S.Ansari, J.)

Having heard learned counsel for the respective parties, we are inclined to dispose of the instant Writ Petition with certain appropriate directions.

The grievance of the petitioner is with respect to the order of the Additional Commissioner (CT), dated: 7.12.2004, whereby, the Petition filed seeking stay of collection of the disputed tax of Rs. 19,87,582/-, pending disposal of the assessee's appeal before the Sales Tax Appellate Tribunal, was rejected.

Without going into the merits of the contentions urged with regard to the liability of the assessee, as also, with regard to the question as to whether the rate at which the tax has been demanded is valid, we are inclined to dispose of the instant Writ Petition with the direction that upon the petitioner depositing 50% of the disputed tax of Rs. 19,87,582/- within a period of four weeks from the date here of, there shall be stay with regard to the balance disputed tax pending disposal of the appeal before the learned Sales Tax Appellate Tribunal. The learned Sales Tax Appellate Tribunal after verifying itself that this order has been complied with by the assessee, shall endeavour to dispose of the appeal expeditiously, and, preferably, within two months from the date of communication of this order. The Writ Petition, accordingly, stands disposed of. Be it clarified that it shall be for the Sales Tax Appellate Tribunal to dispose of the appeal pending on its file in accordance with law, uninfluenced by any observations contained in this judgment and order.

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M.H.S. ANSARI, J.

14.12.2004.

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T.Ch. SURYA RAO, J.

VR

Note:

Communicate operative portion

by wire at party's cost.

(BO)

VR.

To

1. The Additional Commissioner (CT))Legal, (FAC), A.P. Office of the Commissioner of Commercial Taxes, M.J. Road, Hyderabad.
2. The Deputy Commissioner Commercial Taxes, Nellore Division, Nellore.
3. The Commercial Tax Officer, Kavali Circle, Nellore District.

4. Two CCs to Government Pleader for Commercial Taxes, High Court Buildings, Hyderabad (OUT).

5. Two CD copies.

6. The Sales Tax Appellate Tribunal, Hyderabad.